

Department of Energy

§ 1045.22

reasonably be expected to cause undue risk to the common defense and security. Examples of RD information that warrant Confidential classification are the amount of high explosives used in nuclear weapons, gaseous diffusion design information, and design information for Naval reactors.

(b) *Formerly Restricted Data.* The DOE Director of Declassification, jointly with the DoD, shall assign one of the classification levels in paragraph (a) of this section to FRD information to reflect its sensitivity to the national security.

§ 1045.18 Newly generated information in a previously declassified subject area.

(a) The DOE Director of Declassification may evaluate newly generated specific information in a previously declassified subject area using the criteria in section 1045.16 and classify it as RD, if warranted.

(b) The DOE Director of Declassification shall not classify the information in such cases if it is widely disseminated in the public domain.

§ 1045.19 Accountability for classification and declassification determinations.

(a) Whenever a classification or declassification determination concerning RD or FRD information is made, the DOE Directors of Declassification and Security Affairs shall be able to justify the determination. For FRD and RD primarily related to military utilization, the DOE Directors of Declassification and Security Affairs shall coordinate the determination and justification with the DoD. If the determination involves a departure from the presumptions in §1045.15, the justification shall include a rationale for the departure. Often the justification itself will contain RD or FRD information. In such a case, the DOE Directors of Declassification and Security Affairs shall ensure that a separate justification can be prepared which is publicly releasable. The publicly releasable justification shall be made available to any interested person upon request to the DOE Director of Declassification.

(b) The DOE Director of Declassification shall prepare a report on an an-

nual basis on the implementation of this part. This report shall be available to any interested person upon request to the DOE Director of Declassification. Requests may be submitted to the Department of Energy, Director of Declassification, 19901 Germantown Road, Germantown, Maryland 20874-1290.

§ 1045.20 Ongoing call for declassification proposals.

The DOE Director of Security Affairs shall consider proposals from the public or agencies or contractors for declassification of RD and FRD information on an ongoing basis. Declassification proposals for RD and FRD information shall be forwarded to the Department of Energy, Director of Security Affairs, 1000 Independence Avenue SW, Washington, DC 20585. Any proposed action shall include a description of the information concerned and may include a reason for the request. DOE and DoD shall coordinate with one another concerning declassification proposals for FRD information.

§ 1045.21 Privately generated restricted data.

(a) DOE may classify RD which is privately generated by persons not pursuant to Government contracts, in accordance with the Atomic Energy Act.

(b) In order for information privately generated by persons to be classified as RD, the Secretary or Deputy Secretary shall make the determination personally and in writing. This authority shall not be delegated.

(c) DOE shall publish a FEDERAL REGISTER notice when privately generated information is classified as RD, and shall ensure that the content of the notice is consistent with protecting the national security and the interests of the private party.

§ 1045.22 No comment policy.

(a) Authorized holders of RD and FRD shall not confirm or expand upon the classification status or technical accuracy of classified information in the public domain.

(b) Unauthorized disclosure of classified information does not automatically result in the declassification of that information.